

REMARKS

This Amendment is filed in response to the Office Action mailed October 15, 2009. All objections and rejections are respectfully traversed.

Claims 1-2, 4-12, 14, 25-33 are in the case.

No new claims have been added.

Claims 1-2, 10, 12, 14, 25-27, and 29-32 have been amended to better claim the invention.

Interview Summary

Applicant would like to thank Examiner Patel for conducting the Applicant Initiated Interview on January 15, 2010 and for helping to advance this Application closer to allowance. Generally, as will be elaborated upon in greater detail below, the issue discussed involved Applicant's use of the **plurality of protective layers configured to be readily repositioned by the user**. Specifically, Applicant discussed that while Kleinert teaches using pads in between two layers (i.e., top and bottom walls) of a glove, once the pads are inserted into the glove and the top and bottom walls are "secured along the outer periphery" with stitching or sewing or lacing, the pads are unable to be **readily repositioned**. In contrast, Applicant claims that the **plurality of protective layers is configured to be readily repositioned by the user**. The Examiner agreed with Applicant that the amendments to the claims overcame the cited art. Examiner is encouraged to contact the undersigned attorney with any questions.

Rejections Under 35 U.S.C. §103

At paragraph 3 of the Office Action, claims 1-2, 4-12, 14, and 25-33 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kleinert, U.S. Patent No. 6,868,553 issued on March 22, 2005 (hereinafter "Kleinert").

Applicant's claimed novel and non-obvious invention, as set forth in representative claim 1, comprises in part:

1. A glove with a protective pad assembly, comprising:
a base layer, integrally formed of loop fasteners, that extends over a user's palm and encircles a user's thumb to protect a user's hand to which protective layers are to be applied, the base layer comprising the loop fasteners on an outwardly facing surface to provide a soft surface and to allow placement of a plurality of protective layers corresponding to an injury to a median nerve, the user's thumb, or bones or joints covered by the base layer; and
the plurality of protective layers comprising protective material with hook fasteners on a first side and loop fasteners on a second surface, wherein respective layers of the plurality of protective layers are smaller than the base layer and sized to cover regions of the base layer that correspond to the injury to the median nerve, the user's thumb, or bones or joints covered by the glove, wherein the **plurality of protective layers are configured to be readily repositioned by the user** relative to the base layer to provide a selected number of protective layers to selected locations that correspond to the injury to the median nerve, the user's thumb, or bones or joints covered by the glove, wherein the protective layers are further configured to fasten to the base layer by a first side of a first protective layer fastened to the loop fasteners on the base layer and a second side of the first protective layer attached to a first side of a second protective layer to provide at a given selected location protection of at least two protective layers attached to the base layer and to provide at any other selected locations as needed protection of a same or a different number of protective layers readily repositioned by the user.

Kleinert teaches, in relevant part, a (baseball/softball) glove with designated top and bottom walls, with multiple pads in fixed locations within the top and bottom walls. The top and bottom walls are secured along the outer periphery of the glove by lacing, sewing, or stitching, which holds the pads in their fixed location (col. 10, lines 10-20; *see also* col. 10, lines 28-35; *see also* col. 11, lines 27-28). In other words, Kleinert teaches a glove with fixed integrated pads that are pre-arranged to protect a user's hand against, for example, a thrown softball or baseball.

Applicant respectfully urges that Kleinert, taken singly or in any combination with Examiner's apparent Official Notice, does not disclose Applicant's claimed novel and non-obvious use of a **plurality of protective layers configured to be readily repositioned by the user**.

Applicant claims, in part, a configurable protective pad assembly. For example, a base layer may provide an outer and/or inner surface with one part of a two-part hook and loop fastener system. A protective layer, which consists of padding that incorporates fasteners on its surfaces, may be arranged relative to the base layer to provide a user with the ability to *readily customize* their protection to one or more desired locations. For instance, a user may have a hand injury where the palm and first finger have been injured, but the palm has been more severely injured. As a result, the user may place more pads on the wrist for added protection, whereas the user may also place less padding on the first finger. Assume that as time passes, the first finger has completely healed, and while the palm continues to heal, it may still require protective padding. With that being said, Applicant's claimed novel invention allows the user to *readily remove* all the padding from the first finger of the protective pad assembly because the first finger has healed, and further allows the user to *readily decrease* some amount of padding of the protective pad assembly protecting the palm because the palm has healed enough so less padding is required. Assume further that the injured palm is healing slower on the right side than on the left side. Applicant's claimed novel invention further allows the user to *readily reposition* the padding of the protective pad assembly so as to better cover the right side of the palm, or the user may *readily* be able to *add* more padding to the right side of the palm.

Applicant respectfully contends that Kleinert does not teach or suggest Applicant's claimed novel and non-obvious use of a **plurality of protective layers configured to be *readily repositioned* by the user**. Specifically, while Kleinert teaches using pads in between two layers (i.e., top and bottom walls) of a glove, once the pads are inserted into the glove and the top and bottom walls are "secured along the outer periphery" with stitching or sewing or lacing, the pads are unable to be *readily repositioned*. That is to say, without exerting substantial effort to physically cut open the glove or take out each individual stitch and/or lace to access the pads to be repositioned, those pads are permanently in a fixed place in the glove. In contrast, Applicant claims a plurality of layers configured to be *readily repositioned* by the user.

Simply stated, while it may or may not be possible for Kleinert to reposition pads in the glove, this may only be done with great difficulty by first removing the individual stitching and sewing from the outer periphery of the glove, and the user would presumably have to re-stitch and re-sew the outer periphery after the fact for the glove to be of any use. Conversely, Applicant is able to ***readily*** (i.e., easily and without difficulty) ***reposition*** the protective layers. As such because Kleinert does not disclose ***readily repositioning*** the pads of the glove (or repositioning the pads at all), Kleinert is silent to Applicant's claimed novel and non-obvious use of a **plurality of protective layers configured to be readily repositioned by the user**.

Furthermore, Applicant respectfully presents an alternative argument. Specifically, at pages 2 and 3 of the Office Action respectively, Examiner states in relevant part:

The protective layers/packs are encased within a removable cover material (502A) (emphasis added; *see* Fig. 9 below))

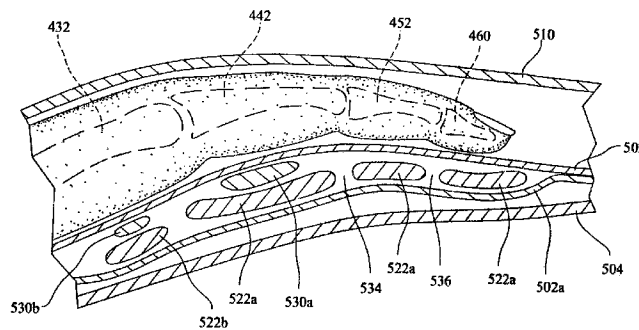


FIG. 9

It would have been obvious to one skilled in the art that the plurality of pads of Kleinert attached to the base fabric of the glove by stitching is impermanent that can be substituted with hook and loop material, or other detachable fastening means in order to allow worn or damaged pads to be easily replaced or as required for a particular application thereof.” (emphasis added)

Applicant respectfully notes that Examiner mistakenly characterizes Kleinert's protective layers/packs being encased in a “removable cover material” (502A). Specifically, Kleinert explicitly states throughout the patent that the top and bottom walls (502 and 502A) are “secured along the outer periphery” with “stitching” or “sewing” or “lac-

ing”. If Kleinert’s padding were meant (or even suggested) to be removable, some other less securely fastened means would have been discussed to allow access to the padding. Notably, no such less securely fastened means is taught or suggested anywhere in Kleinert, nor is the like claimed by Kleinert. Moreover, if there is no mention or suggestion in Kleinert to encase the pads in a removable cover material, then it logically follows that Kleinert would not mention or suggest the ability or desire to *readily reposition* the padding. In direct contrast, Applicant’s claimed novel and non-obvious invention explicitly states that the **plurality of protective layers are configured to be *readily repositioned* by the user**. As such, because Kleinert does not teach or suggest repositioning the protective layers of the glove, Kleinert does not teach or suggest Applicant’s claim novel and non-obvious **plurality of protective layers are configured to be *readily repositioned* by the user**.

Accordingly, Applicant respectfully urges that Kleinert is legally insufficient to render the presently claimed invention obvious under 35 U.S.C. §103(a), because Kleinert does not disclose Applicant’s claimed novel and non-obvious use of a **plurality of layers are configured to be *readily repositioned* by the user**.

Applicant’s Interpretation of the Prior Art

Applicant’s interpretation of Kleinert was derived, in part, from the following excerpts:

More particularly, the present invention provides a baseball (softball) glove which includes a top portion and a bottom portion secured along outer peripheries of each portion to define a glove body...(col. 4, lines 1-4)

The mitt 500 includes a top and bottom wall designated 502 and 504, respectively, of suitable material, such as leather. The top and bottom walls are secured along the outer periphery of the mitt, usually by lacing. (col. 10, lines 1-13) (emphasis added)

A top panel member 510 is secured, usually by stitching, to the bottom wall 504 of the mitt 500 for covering the back of the hand. (col. 10 lines 16-18) (emphasis added)

Panel member 510 is usually a flexible sheet material, such as leather, and may comprise a plurality of pieces sewn together or may be of unitary construction and sewn together to form the stalls with a hand opening...(col. 10, lines 28-31) (emphasis added)

The top and bottom walls are secured along the outer periphery, usually by lacing. (col. 11, lines 27-28) (emphasis added)

Claim Support

Any currently pending claim(s) are believed to be in condition for allowance and fully supported by Applicant's specification, as may be shown at least by the exemplary citation(s) further below. Upon request, additional citations may be provided for additional support.

With reference to the claim(s), support may be found in part at Specification spanning page 4, line 26 to page 5, line 7:

Referring now to Fig. 3, a protective layer 18 is strategically positioned over the base layer to provide padding over the area proximate to the user's median nerve. The protective layer 18 incorporates, in at least one side of its surface 19, fasteners that mate with the fasteners on the surface 13 of the base layer 12. In the example, the protective layer 18 incorporates hooks that mate with the loops of the surface 13. Additional protective layers may be added to the assembly by securing each layer to the previously applied layer or to the inside the base layer. Further, the first protective layer or other layers may be readily repositioned anywhere on the base layer. For example, a protective layer may be applied to the thumb. As discussed in more detail below with reference to Fig. 12, a cover layer with an inner fastener surface and a smooth outer surface may be applied over the protective layers, to complete the assembly.

Conclusion

All new claims and/or claim amendments are believed to be fully supported by Applicant's specification.

All independent claims are believed to be in condition for allowance.

All dependent claims are believed to be dependent from allowable independent claims, and therefore in condition for allowance.

Favorable action is respectfully solicited.

Please charge any additional fee occasioned by this paper to our Deposit Account
No. 03-1237.

Respectfully submitted,

/Michael T. Abramson/
Michael T. Abramson
Reg. No. 60,320
CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210
Telephone: (617) 951-2500
Facsimile: (617) 951-3927